

TESTIMONY OF JONATHAN SILVER

HEARING BEFORE THE HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM “PREVENTING VIOLATIONS OF FEDERAL TRANSPARENCY LAWS”

Tuesday, September 10, 2013

Good morning.

My name is Jonathan Silver and I have been asked to appear today as the Committee examines issues around email record-keeping in the federal government. I previously served as the Executive Director of the Loan Programs Office at the Department of Energy, a position I left almost two years ago. I should note, therefore, that I am here today in my capacity as a private citizen and am not in a position to speak to, or about, the current retention policies and practices at the Department.

I testified before this Committee's Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending in 2012, where these issues were discussed in depth. In 2011, I testified in front of a different House Committee that also addressed some of these issues. I have also been interviewed on several occasions by various Committee staff.

I last came before this Committee more than a year ago during the Committee's review of one of the 1705 program loans. During the course of that review, I voluntarily provided all the relevant documents I had from my personal email account, covering not only the time I was at the Department of Energy, but also, at the Committee's request, emails for an entire year before I was even in the federal government.

Today I will, of course, answer the Committee's questions again to the best of my ability. My appearance today, along with my swift compliance with your document requests a year and a half ago, demonstrates my willingness to assist the Committee in its work. I would note, Mr. Chairman, that I also offered to make myself available to Committee staff in an informal setting prior to this hearing, but that offer was declined.

As you know, Mr. Chairman, the 1705 loan program had a statutory sunset date of September 30, 2011, and substantial funds needed to be deployed by that date. It is important to remember that my office was working diligently to deploy that capital within a timeframe established by Congress. We

worked day and night to get the job done. Working under such a tight deadline required ongoing communications during and after business hours, and at night and on weekends. This was challenging because, as anyone who has worked at the Department can tell you, the government's IT systems are old and cumbersome.

The overwhelming majority of the emails produced from my personal account are copies of emails from my DOE account containing documents, duplicate copies, white papers, analyses, spreadsheets and others that already existed on the DOE servers. I occasionally forwarded, or had forwarded to me, documents from work in order to be able to work while traveling, out of the office, or at night and on weekends. I also sent and received some emails asking about logistics, or for updates, or to share an observation. I used my personal email in an effort to be as efficient and productive as possible, not in an attempt to be evasive.

When I left the government two years ago, I did not have a clear understanding of the Department's requirements concerning personal email retention. As soon as I was apprised of these obligations, I immediately turned over all the relevant documents I had both to the Department of Energy and directly to this Committee. It is my understanding that that production satisfied any obligation I may have had under the Federal Records Act.

I am ready to answer any questions you may have. Thank you.